

connections to push their agenda. Making public every properly filed petition for rulemaking will level the playing field. This is another important step to be more transparent, to promote democratic debate, and to rebuild trust in the Federal Trade Commission.

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## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

#### 33 CFR Part 100

[Docket Number USCG-2021-0804]

RIN 1625-AA08

#### Special Local Regulation; San Diego Bay, San Diego, CA

**AGENCY:** Coast Guard, Department of Homeland Security (DHS).

**ACTION:** Temporary final rule.

**SUMMARY:** The Coast Guard is establishing a temporary special local regulation (SLR) in the navigable waters of San Diego Bay, California during the Baja Ha-Ha XXVII Pre-Rally Parade marine event. This regulation is necessary to provide for the safety of the participants, crew, spectators, sponsor vessels of the parade, and general users of the waterway during the event, which will be held on November 1, 2021. This special local regulation will temporarily prohibit persons and vessels from entering into, transiting through, anchoring, blocking, or loitering within the event area unless authorized by the Captain of the Port San Diego or a designated representative.

**DATES:** This rule is effective from 8:30 a.m. to 11:30 a.m. on November 1, 2021.

**ADDRESSES:** To view documents mentioned in this preamble as being available in the docket, go to <https://www.regulations.gov>, type USCG-2021-0804 in the search box and click "Search." Next, in the Document Type column, select "Supporting & Related Material."

**FOR FURTHER INFORMATION CONTACT:** If you have questions on this rule, call or email Lieutenant Commander John Santorum, Waterways Management, U.S. Coast Guard Sector San Diego, CA; telephone (619) 278-7656, email [D11MarineEventsSD@uscg.mil](mailto:D11MarineEventsSD@uscg.mil).

#### SUPPLEMENTARY INFORMATION:

##### I. Table of Abbreviations

CFR Code of Federal Regulations  
DHS Department of Homeland Security  
FR Federal Register

NPRM Notice of proposed rulemaking  
§ Section  
U.S.C. United States Code

##### II. Background Information and Regulatory History

The Coast Guard is issuing this temporary rule without prior notice and opportunity to comment pursuant to authority under section 4(a) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). This provision authorizes an agency to issue a rule without prior notice and opportunity to comment when the agency for good cause finds that those procedures are "impracticable, unnecessary, or contrary to the public interest." Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking (NPRM) with respect to this rule because we must establish this special local regulation by November 1, 2021. The event sponsor did not notify the Coast Guard of the official date of the event until September 12, 2021. Therefore, it is impracticable to publish an NPRM because we lack sufficient time to provide a reasonable comment period and then consider those comments before issuing the rule. This regulation is necessary to ensure the safety of life on the navigable waters of San Diego Bay during the marine event.

Under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**. Delaying the effective date of this rule would be contrary to public interest because action is needed to ensure the safety of life on the navigable waters of San Diego Bay during the marine event on November 1, 2021.

##### III. Legal Authority and Need for Rule

The Coast Guard is issuing this rule under authority in 46 U.S.C. 70041 (previously 33 U.S.C. 1236). The Captain of the Port Sector San Diego (COTP) has determined that the large number of vessels associated with the Baja Ha-Ha XXVII Pre-Rally Parade marine event on November 1, 2021, poses a potential safety concern in the regulated area. This rule is needed to protect persons, vessels, and the marine environment in the navigable waters of San Diego Bay during the marine event.

##### IV. Discussion of the Rule

This rule establishes a special local regulation from 8:30 a.m. to 11:30 a.m. on November 1, 2021. This special local regulation will cover all navigable waters, from surface to bottom, on a pre-determined course within San Diego Bay, California, beginning at the starting

point of the event in South San Diego Bay, proceeding northwest to Harbor Island, then southwest to Shelter Island, and finishing at the starting point of the rally outside of the San Diego Bay channel entrance. The duration of the temporary special local regulation is intended to ensure the safety of vessels, personnel, and the marine environment in these navigable waters during the scheduled marine event. No vessel or person will be permitted to enter the regulated area without obtaining permission from the COTP or a designated representative. The regulatory text provides information on how to contact the COTP or a designated representative for permission to transit the area. When in the regulated area, persons must comply with all lawful orders or directions given to them by the COTP or designated representative. Additionally, the COTP will provide notice of the regulated area through advanced notice via broadcast notice to mariners or by on-scene designated representatives.

##### V. Regulatory Analyses

We developed this rule after considering numerous statutes and Executive orders related to rulemaking. Below we summarize our analyses based on a number of these statutes and Executive orders, and we discuss First Amendment rights of protestors.

###### A. Regulatory Planning and Review

Executive Orders 12866 and 13563 direct agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits. This rule has not been designated a "significant regulatory action," under Executive Order 12866. Accordingly, this rule has not been reviewed by the Office of Management and Budget (OMB).

This regulatory action determination is based on the size, location, duration, and time-of-day of the regulated area. The affected portion of the navigable waterway in San Diego Bay will be of very limited duration, during morning hours when vessel traffic is historically low and is necessary for safety of life of participants in the marine event. Moreover, the Coast Guard will issue a Local Notice to Mariners and a Safety Marine Information Broadcast over Channel 22A about the regulated area.

###### B. Impact on Small Entities

The Regulatory Flexibility Act of 1980, 5 U.S.C. 601-612, as amended, requires Federal agencies to consider the potential impact of regulations on

small entities during rulemaking. The term “small entities” comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000. The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities.

While some owners or operators of vessels intending to transit the regulated area may be small entities, for the reasons stated in section V.A above, this rule will not have a significant economic impact on any vessel owner or operator.

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we want to assist small entities in understanding this rule. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please call or email the person listed in the **FOR FURTHER INFORMATION CONTACT** section.

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency’s responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1–888–REG–FAIR (1–888–734–3247). The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

#### C. Collection of Information

This rule will not call for a new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

#### D. Federalism and Indian Tribal Governments

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on the States, on the relationship between the National Government and the States, or on the distribution of power and responsibilities among the various levels of government. We have analyzed this rule under that order and have determined that it is consistent with the fundamental federalism

principles and preemption requirements described in Executive Order 13132.

Also, this rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

#### E. Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of \$100,000,000 (adjusted for inflation) or more in any one year. Though this rule will not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

#### F. Environment

We have analyzed this rule under Department of Homeland Security Directive 023–01, Rev. 1, associated implementing instructions, and Environmental Planning COMDTINST 5090.1 (series), which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321–4370f), and have determined that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule involves a temporary special local regulation that will limit access to certain areas within San Diego Bay, from 8:30 a.m. until 11:30 a.m. on November 1, 2021. It is categorically excluded from further review under paragraph L61 of Appendix A, Table 1 of DHS Instruction Manual 023–01–001–01, Rev. 1.

#### G. Protest Activities

The Coast Guard respects the First Amendment rights of protesters. Protesters are asked to call or email the person listed in the **FOR FURTHER INFORMATION CONTACT** section to coordinate protest activities so that your message can be received without jeopardizing the safety or security of people, places or vessels.

#### List of Subjects in 33 CFR Part 100

Marine safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, Waterways.

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 100 as follows:

### PART 100—SAFETY OF LIFE ON NAVIGABLE WATERS

■ 1. The authority citation for part 100 continues to read as follows:

**Authority:** 46 U.S.C. 70041; 33 CFR 1.05–1.

■ 2. Add § 100.T11–081 to read as follows:

#### § 100.T11–081 Baja Ha-Ha XXVII Pre-Rally Parade, San Diego, California.

(a) *Regulated area.* The regulations in this section apply to the following area: all navigable waters, from surface to bottom, on a pre-determined course within San Diego Bay, California, beginning at the starting point of the event in South San Diego Bay, proceeding northwest to Harbor Island, then southwest to Shelter Island, and finishing at the starting point of the rally outside of the San Diego Bay channel entrance.

(b) *Definitions.* As used in this section—

*Designated representative* means a Coast Guard Patrol Commander, including a Coast Guard coxswain, petty officer, or other officer operating a Coast Guard vessel and a Federal, State, and local officer designated by or assisting the Captain of the Port San Diego (COTP) in the enforcement of the regulations in this section.

*Participant* means all persons and vessels registered with the event sponsor as a participants in the boat parade.

(c) *Regulations.* (1) All non-participants are prohibited from entering, transiting through, anchoring in, or remaining within the regulated area described in paragraph (a) of this section unless authorized by the Captain of the Port San Diego or their designated representative.

(2) To seek permission to enter, contact the the COTP or a designated representative. They may be contacted on VHF–FM Channel 21A or by telephone at 619–278–7033. Those in the regulated area must comply with all lawful orders or directions given to them by the COTP or designated representative.

(3) The COTP will provide notice of the regulated area through advanced notice via broadcast notice to mariners or by on-scene designated representatives.

(d) *Enforcement period.* This section will be enforced from 8:30 a.m. until 11:30 a.m., on November 1, 2021.

Dated: October 25, 2021.

T.J. Barelli,

Captain, U.S. Coast Guard, Captain of the Port San Diego.

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## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 62

[EPA-R01-OAR-2021-0265; FRL-8861-01-R1]

#### Approval and Promulgation of State Plans for Designated Facilities and Pollutants: Massachusetts; 111(d)/129 Revised State Plan for Large Municipal Waste Combustors

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Final rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is approving the Clean Air Act State Plan revisions for Large Municipal Waste Combustors (MWCs) submitted by the Massachusetts Department of Environmental Protection (MassDEP) on December 18, 2018. The revised State Plan is in response to amended emission guidelines (EGs) for Large MWCs promulgated on May 10, 2006. MassDEP's State Plan is for implementing and enforcing provisions at least as protective as the EGs applicable to existing Large MWCs. This action is being taken under the Clean Air Act.

**DATES:** This rule is effective on November 29, 2021. The incorporation by reference of certain publications listed in the rule is approved by the Director of the Federal Register as of November 29, 2021.

**ADDRESSES:** EPA has established a docket for this action under Docket Identification No. EPA-R01-OAR-2021-0265. All documents in the docket are listed on the <https://www.regulations.gov> website. Although listed in the index, some information is not publicly available, *i.e.*, confidential business information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the internet and will be publicly available only in hard copy form. Publicly available docket materials are available at <https://www.regulations.gov> or at the U.S. Environmental Protection Agency, EPA Region 1 Regional Office, Air and Radiation Division, 5 Post Office Square—Suite 100, Boston, MA. EPA

requests that if at all possible, you contact the contact listed in the **FOR FURTHER INFORMATION CONTACT** section to schedule your inspection. The Regional Office's official hours of business are Monday through Friday, 8:30 a.m. to 4:30 p.m., excluding legal holidays and facility closures due to COVID-19.

**FOR FURTHER INFORMATION CONTACT:** Shutsu Wong, Air Quality Branch, U.S. Environmental Protection Agency, EPA Region 1, 5 Post Office Square—Suite 100, (Mail Code 05-2), Boston, MA 02109-3912, tel. 617-918-1078, email [wong.shutsu@epa.gov](mailto:wong.shutsu@epa.gov).

**SUPPLEMENTARY INFORMATION:** Throughout this document whenever “we,” “us,” or “our” is used, we mean EPA.

#### Table of Contents

- I. Background and Purpose
- II. Final Action
- III. Incorporation by Reference
- IV. Statutory and Executive Order Reviews

#### I. Background and Purpose

On May 20, 2021 (86 FR 27350), EPA published a notice of proposed rulemaking (NPRM) for the Commonwealth of Massachusetts.

The NPRM proposed approval of the Clean Air Act State Plan revisions for Large MWCs submitted by the MassDEP on December 18, 2018. MassDEP revised the Code of Massachusetts Regulations (CMR), specifically at 310 CMR 7.08(2) entitled “Municipal Waste Combustors,” and submitted the revised State Plan in response to amended EGs for Large MWCs promulgated on May 10, 2006. MassDEP's State Plan is for implementing and enforcing provisions at least as protective as the EGs applicable to existing Large MWCs.

Other specific requirements under sections 111(d) and 129 of the Clean Air Act, and the rationale for EPA's proposed action, are explained in the NPRM and will not be restated here. No public comments were received on the NPRM.

#### II. Final Action

EPA is approving the MassDEP's revised State Plan for existing Large MWCs.

#### III. Incorporation by Reference

In this rule, EPA is finalizing regulatory text that uses incorporation by reference. In accordance with requirements of 1 CFR 51.5, EPA is finalizing the incorporation by reference of the provisions of 310 CMR 7.08(2), entitled “Municipal Waste Combustors,” effective March 9, 2018, excluding the site assignment provisions of 310 CMR 7.08(2)(a), the

definition of “materials separation plan” at 310 CMR 7.08(2)(c), and the materials separation plan provisions at 310 CMR 7.08(2)(f)8. These provisions establish emission limitations and requirements for Large MWCs in Massachusetts. In accordance with 5 U.S.C. 552(a), EPA has made, and will continue to make, these documents generally available through <https://www.regulations.gov> and at the EPA Region 1 Office (please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information). This incorporation by reference is approved by the Office of the Federal Register upon the effective date of this final rule, and the plan is federally enforceable under the Clean Air Act (CAA) as of the effective date of this final rulemaking.

#### IV. Statutory and Executive Order Reviews

Under the Clean Air Act, the Administrator is required to approve a State Plan submittal that complies with the provisions of the Act and applicable Federal regulations. Clean Air Act sections 111(d) and 129(b); 40 CFR part 60, subparts B and Cb; and 40 CFR part 62, subpart A; and 40 CFR 62.04. Thus, in reviewing state plan submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. Accordingly, this action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- Is not a significant regulatory action subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104-4);
- Does not have federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);